

¹ In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on an appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

intervertebral disc disorders with radiculopathy, lumbar region; sprain of ligaments of thoracic spine; sprain of other parts of lumbar spine and pelvis; and unspecified sprain of left hip. Appellant's claims have not been administratively combined.

By decision dated July 30, 2019, OWCP denied appellant's claim in OWCP File xxxxx860, finding that she had not factually established the occurrence of the alleged November 23, 2018 employment injury or submitted any medical evidence containing a diagnosed condition.

Thereafter, OWCP received a September 5, 2017 report from Dr. Langston T. Holly, a Board-certified neurosurgeon, who advised that he was treating appellant due to a January 2017 slip and fall. Dr. Holly noted that she had previously undergone microdiscectomy surgery at L3-4 on March 16, 2017. He provided work restrictions.

Electrodiagnostic testing performed on December 7, 2018 yielded normal findings. An October 8, 2019 magnetic resonance imaging (MRI) scan of the pelvis showed abnormal T2 hyperintensity and mild increased caliber of the left L4 nerve.

On November 20, 2019 OWCP received a report indicating that, on December 17, 2018, Dr. Francis M. Ferrante, a Board-certified internist and anesthesiologist, and Dr. Varun Shahi, who specializes in emergency medicine, evaluated appellant for left hip and leg pain. They discussed her history of an L3-4 microdiscectomy at L3-4 in March 2017. Drs. Ferrante and Shahi advised that appellant had fallen off a chair recently aggravating the pain in her low back and experiencing "new neck pain." They provided differential diagnoses of lumbar radiculopathy, complex regional pain syndrome (CRPS), plexopathy, myofascial pain, polyneuropathy, cervical paraspinal muscle strain, cervical fracture, and cervical radiculopathy.

In a report dated December 18, 2018, Dr. Felicia C. Yu, a Board-certified internist, and Dr. Isabella Lai, an internist, obtained a history of appellant experiencing left leg and hip pain in January 2017 after a ground level fall when she tripped in a puddle of water. In March 2017, appellant underwent a microdiscectomy at L3-4. Dr. Yu and Dr. Lai noted that she had strained the muscles in her neck after falling off a chair. They diagnosed muscle strain of the left thigh, left anterior leg pain, low back pain radiating to the left leg, acute lumbar radiculopathy, status post lumbar discectomy, lumbar spinal stenosis, neck strain, neck pain, and chronic left-sided low back pain with left sciatica.

On December 20, 2018 Dr. Ferrante discussed appellant's complaints of pain in the left anterolateral hip radiating into the left groin and knee for the past 18 months. He noted that she had recently had "a new fall off a chair at work that has now further aggravated her lower back pain." Dr. Ferrante advised that an MRI scan of the pelvis showed segmental L4 mononeuropathy. He related that appellant should remain off work until the next reevaluation in view of her second fall superimposed on her initial disabling injury.

On January 2, 2019 Dr. Arash D. Kohanteb, Board-certified in emergency medicine, treated appellant at the emergency department. He noted that she had experienced intermittent neck pain and headaches since falling off a chair and hitting her head a month earlier. Dr. Kohanteb diagnosed neck strain and a nonintractable headache of unspecified chronicity and type.

In a report dated January 16, 2019, Dr. Justin G. Laube, a Board-certified internist, discussed appellant's complaints of neck, back, and upper left leg pain. In a progress report dated January 29, 2019, he evaluated her for increased back pain. Dr. Laube indicated that appellant had experienced a fall in January 2017.

On January 23, 2019 Dr. Ferrante evaluated appellant for neck pain with headaches and low back pain radiating into the left anterior thigh. He noted that she attributed her neck pain to a fall from a chair in November 2018. Dr. Ferrante listed the same differential diagnoses as in his December 17, 2018 report. He submitted similar progress reports on March 6 and 26 and August 6, 2019.²

In a February 11, 2019 progress report, Dr. Yu advised that appellant had pain in her low back, left inner thigh, left knee, neck, and shoulder and improving headaches. She diagnosed neck pain, anterior left leg pain, lumbar spinal stenosis, low back pain radiating into the left leg, lumbar radiculopathy, chronic left-sided low back pain with left sciatica, status post lumbar discectomy, right trapezius muscle strain, and chronic left knee pain.

On April 9, 2019 Dr. Yu evaluated appellant for neck, back, and left leg pain. She noted that appellant's symptoms of chronic left leg pain had begun a year and a half earlier after a fall and discussed her history of a discectomy at L3-4. Dr. Yu diagnosed anterior left leg pain, sequela of a muscle strain of the left thigh, neck pain, stress, and chronic bilateral low back pain without sciatica. She provided similar progress reports dated May through November 2019.

On August 6, 2019 Dr. Ferrante indicated that he had initially evaluated appellant on December 17, 2018 "when [appellant] presented after the fall from a chair at work on November 23, 2018 that resulted in a severe whiplash neck injury and an exacerbation of the symptoms of her previously lower back/left leg injury." He related that initial findings included pain in the neck and upper back with muscle spasm, headaches, and loss of cervical range of motion. Dr. Ferrante related, "In addition, [appellant's] recent injury has intensified her chronic lower back pain and the left leg radiculopathy." He provided work restrictions. On October 8, 2019 Dr. Ferrante recommended facet injections from C3 to C7, noting that appellant's neck pain had recently increased. On September 3, 2019 Dr. Laube diagnosed left leg pain, stress, neck pain, and a muscle strain of the left thigh.

In a report dated February 3, 2020, Dr. Ferrante discussed appellant's complaints of neck pain radiating into her upper back and chronic left hip and leg pain. He recommended cervical facet injections. Dr. Ferrante diagnosed lumbar radiculopathy, CRPS, plexopathy, myofascial pain, polyneuropathy, and cervical whiplash, cervical spondylosis, and paraspinal muscle strain.

On February 12, 2020 Dr. Jakun Ing, a Board-certified anesthesiologist, reviewed appellant's history of low back and left leg radiculopathy after a January 9, 2017 fall at work. He related, "[Appellant's] left leg and lower back pain from this work-related injury continues to persist after the surgery, and in addition, it has markedly intensified after the fall from a chair at work on November 23, 2018 when she sustained a severe neck whiplash injury and severe ongoing neck and upper back pain, muscle spasms, headaches, and markedly reduced neck mobility."

² The record also contains the first page of a narrative report from Dr. Ferrante dated March 26, 2019.

Dr. Ing advised that a lack of reasonable accommodation at work had exacerbated her left leg pain. He provided work restrictions.

In an undated statement received by OWCP on February 24, 2020 appellant related that on November 23, 2018 she was trying to adjust her chair when she fell backward from the chair onto the floor. She also submitted a statement from a coworker, who found appellant on the floor next to her chair on November 23, 2018. Appellant described the circumstances surrounding her injury and noted that she had previously sustained an employment injury in January 2017 that required surgery. She asserted that she had sustained a whiplash injury to her neck and an exacerbation of her prior back injury.

On February 24, 2020 appellant, through counsel, requested reconsideration.

By decision dated November 12, 2020, OWCP modified its July 30, 2019 decision to find that appellant had factually established the occurrence of the November 23, 2018 employment injury and submitted medical evidence containing a diagnosis. It further found, however, that the medical evidence was insufficient to show that she sustained a diagnosed medical condition causally related to the accepted November 23, 2018 employment incident.

An MRI scan of the cervical spine obtained on December 18, 2020 showed mild degenerative changes. An MRI scan of the thoracic spine of even date revealed a small central disc protrusion at "T6-C7," and an MRI scan of the lumbar spine of even date demonstrated a small disc protrusion at L3-4 and severe disc degeneration and disc height loss at L4-5 and L5-S1.

On February 24, 2021 Dr. Ferrante reviewed appellant's history of a slip and fall at work on January 9, 2017 and a fall from a chair at work on November 23, 2018. He advised that she continued to have left leg and lower back pain from the January 9, 2017 incident. Dr. Ferrante asserted that appellant's fall from a non-ergonomic chair at work on November 23, 2018 had caused a severe whiplash injury to her neck resulting in "neck and upper back pain, muscle spasms, headaches, reduced neck mobility, and right arm pain and numbness." He provided work restrictions.

On April 9, 2021 appellant, through counsel, requested reconsideration.

By decision dated May 7, 2021, OWCP denied modification of its November 12, 2020 decision.

In a report dated July 14, 2021, Dr. Ferrante again discussed appellant's history of a January 9, 2017 slip and fall at work treated with surgery. He related that her fall from a chair on November 23, 2018 at work had aggravated her pain in her back, hip, and left leg, and caused a severe whiplash injury of the neck and strain/sprain of the neck, back, bilateral shoulders more on the right, and right arm ulnar neuropathy with paresthesia of the right arm. Dr. Ferrante discussed appellant's work restrictions.

On September 15, 2021 appellant requested reconsideration.

By decision dated October 21, 2021, OWCP denied modification of its May 7, 2021 decision.

The Board finds that the case is not in posture for decision. OWCP's procedures provide that cases should be administratively combined when correct adjudication of the issues depends on frequent cross-referencing between files.³ For example, if a new injury case is reported for an employee who previously filed an injury claim for a similar condition or the same part of the body, doubling is required.⁴

In the present claim, OWCP File No. xxxxxx860, appellant alleged injuries to her upper arms, neck, lower back, and left leg, and a skin abrasion of her upper back and lower neck. In a prior claim, OWCP File No. xxxxxx259, OWCP accepted appellant's claim for intervertebral disc disorders with radiculopathy, lumbar region; sprain of ligaments of thoracic spine; sprain of other parts of lumbar spine and pelvis, and unspecified sprain of left hip. The Board notes that both of appellant's claims concern injuries to the low and mid back, and to the left lower extremity. However, the evidence pertaining to OWCP File No. xxxxxx259 is not part of the case record before the Board. For a full and fair adjudication, the case must be remanded to OWCP to administratively combine the current case record with OWCP File No. xxxxxx259, so it can consider all relevant claim files and accompanying evidence in adjudicating appellant's current traumatic injury claim.⁵ Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision. Accordingly,

³ Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8(c) (February 2000).

⁴ *Id.*; *M.L.*, Docket No. 20-1176 (issued April 29, 2021); *L.M.*, Docket No. 19-1490 (issued January 29, 2020); *L.H.*, Docket No 18-1777 (issued July 2, 2019).

⁵ *Supra* note 3 at Chapter 2.400.8(c); *M.M.*, Docket No. 21-1396 (issued April 21, 2022).

IT IS HEREBY ORDERED THAT the October 21, 2021 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this order of the Board.

Issued: May 26, 2022
Washington,

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board